THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

W.P.No.20914 of 2004

O R D E R:(*Per M.Venkateswara Reddy,J)*

Aggrieved by the order dated 23-04-2004 of the Central Administrative Tribunal, Hyderabad Bench (for short "the Tribunal"), made in O.A.No.1436 of 2002 on its file, directing the petitioners herein to award all the six respondents herein the minimum qualifying marks (i.e., 33% marks) in Paper IX in the Junior Accounts Officers Part-II Examination conducted in December, 2000 by the petitioners herein, the present writ petition is filed.

All the six respondents were appointed as Telephone Operators/Assistants on regular basis in the Department of Telecommunications. They became permanent employees and were promoted as Junior Accounts Officers on officiating basis, after they passed the Junior Accounts Officers' Examination Part-I Examination, in the A.P. Telecom Circle. They appeared for the Junior Accounts Officers Part-II Examination conducted in December, 2000. The examination consists of five papers viz., Papers VII, VIII, IX, X and XI. Out of those five papers, papers VII and IX are theory papers (without books) and papers VIII and X are practicals (with books). The said four papers i.e., VII, IX, VIII and X consisted of 100 marks each. The minimum qualifying marks in each subject is '33%'. Paper XI consists of practicals (with books) and it carries 150 marks. The qualifying marks in Junior Accounts Officers Part-II Examination are 33% in each paper and 35% in the aggregate. Those who secured 60% in any paper would be exempted from appearing in the particular paper in the subsequent examination.

Paper IX of the above said examination is theory paper with the following syllabus:

1. P & T FHB Volume I (General Principles and Cash)
2. P & T FHB Volume III (Parts I, II and III)

3. P & T FHB Volume IV

4. P & T Manual Vol.X

5. P & T Manual Vol.XIV

6. Telecom Accounts Manual (Chapters 1 to 7 and 11)

7. Book of Accounts Office Forms, Vol.I

8. Book of P & T Accounts Forms

The respondents allege that though Chapter II and V of Posts and Telegraphs Financial Hand Book (P&T FHB) Volume-I consisting of General Principles and Cash were prescribed, in addition to the other books mentioned supra, the questions for 65 marks out of 100 marks in
paper-IX have been given from other Chapters of P&T FHV Volume-I, which are not prescribed in the syllabus and the same had upset the bright chances of the success of the respondents. They made a representation before the 2nd petitioner to grant full marks to them so as to enable them to secure qualifying marks. The questions which were given out of syllabus covered 65 marks out of 100 marks as follows, as per the respondents:

"Question Chapter No./Name Rule No. Marks

No. allotted

1(b) XI Contingent Charges 344 5

2(a) XIII Loans and Advances to GID under 10

Govt. Servants. Rule 410

2(b) XIII Loans & Advances to 424 10

Government Servants

3 XIII Loans & Advances to GID under 20

Government Servants Rule 390

(GID-1 payment of

Advance to Contractors)

(GID-2 : Advance payment

to private firms for supply

of Stores/Services &

Maintenance of machines)

5 VII – Revenue and Under D.G. 20

Miscellaneous Receipts orders

Annexure-I

Total marks out of syllabus

The marks secured by six respondents and the short fall in the qualifying marks are as under:

Roll No. Name of

Applicant. P-VII P-VIII P-IX P-X P-XI Short of

Qualifying marks

APT/070/2000 N.Lokanadham 35 56 20 35 98 5

APT/031/2000 I.Lakshmi 40 41 16 43 105 1

APT/052/2000 K.Subrahmany- 40 37 17 39 115 4

eswara Rao

APT/098/2000 T.Raghamma 33 60 27 27 91 6

APT/091/2000 S.Rajeswari 27 39 27 28 10 6

APT/042/2000 K.Nageswara Rao 40 63 19 31 113 10

Thus, the respondents allege that as the questions given in paper-IX were out of syllabus to an extent of 65 marks, they could not secure the qualifying marks and therefore the respondents sought a declaration before the Tribunal that the action of the first respondent therein in conducting Paper-IX of J.A.O. Part-II examination by giving questions out of syllabus as arbitrary, discriminatory and illegal and for a consequential direction to award minimum qualifying marks to the applicants in the said paper and declare them as passed in J.A.O. Part-II examination. Alternatively they sought conducting of re-examination in paper 9

only.

As already stated, the Tribunal directed the petitioners herein to award all the respondents minimum qualifying marks in paper IX i.e., 33% marks. The reasoning given by the Tribunal for giving such a direction is contained in para 20, which runs as under:

> "20. As the facts stand, it is an undisputed fact
> that the syllabus for Paper –IX prescribed by the
> competent authority clearly mentions "General Principles and Cash". The General Principles are covered in Chapter 2 and Cash in Chapter 7 of FHB-Vol.I. But other volumes of the paper, namely, Vol.III, V, X, XIV, etc., which should have been part and parcel of Paper –IX have been omitted from the syllabus given for Paper-IX. Any person who goes by the Syllabus of Paper-IX is bound to get confused about the Chapters which are there in the course for paper. There is, therefore, sufficient strength in the argument put forth by the applicants and their counsel that the question relating to other Chapters for Paper –IX are not related to "General Principles and Cash" and as such, questions for 65 marks out of 100 marks set in Paper-IX of J.A.O. Part-II Examination in December, 2000, can easily be described as out of syllabus. The contention of the respondents that had it been the intention of respondent- organization to limit to only two chapters in FHB Vol.I, they would have in that case clearly mentioned as Chapters "General Principles and rules" and "Cash".
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> The further contention of the respondents that the word "General Principles" would mean he entire handbook, would not clinch the issue as unless clearly mentioned in the syllabus, such presumptions cannot be taken by the candidates appearing for the examination. The candidates, therefore, deserve to be given the benefit of doubt by awarding some relief to them for the mistake caused by the respondents in that regard.
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> 20. Now since sufficient time has passed
> after the examination held in December, 2000, and
> we are told by the ld.counsel for the respondents
> that another examination has already taken place
> for JAO Part-II, in which all the applicants have
> appeared for all the papers including Paper-IX, it
> would not be advisable to hold any re-examination in Paper-IX at this stage. However, in the interest of justice, it would be proper to award minimum qualifying marks to each of the seven applicants, namely, 33 marks in Paper-IX. Since as per rules, 33% marks are to be obtained by the applicants in each of the papers and 36 per cent marks in the aggregate,

....."

It also discloses that all the respondents herein had appeared for all the papers including Paper-IX subsequently. Despite it, the direction to award minimum qualifying marks was given by the Tribunal. The reasons given by the Tribunal are cryptic and not elaborate. As per Rule 17 of Part-I of Financial Hand Book, Volume-3, the duties of the Accounts officer are as under"

> "17.....The functions of the Accounts Officer are threefold-
>
> (a) For the correct compilation of the Accounts of the Division in accordance with the prescribed rules.
>
> (b) For applying preliminary checks to initial accounts, vouchers, etc., and pre check of claims.
>
> (c) To render general assistance and advice to the Divisional Engineer in all matters relating to accounts and budget estimates or to the operation of financial rules."

It is contented that the respondents, in order to work as Accounts Officers, have to be thorough with the Rules pertaining to all receipts and expenditure of the Department, more particularly, since the post of Junior Accounts Officer is a cadre post for promotion to the post of Senior Accounts Officer. Prescribing minimum qualifying marks has logic behind it and it has a laudable objective. The respondents are public servants and discharging crucial functions relating to finances of the State. The object behind prescription of qualifying marks is to assess the caliber of the candidate to be promoted to the post of Senior Accounts Officer. If one has no caliber to hold the post it would adversely affect proper functioning of the Department, more particularly, when he is dealing with the finances of that department. Therefore, certainly a candidate should possess some minimum standards of ability and caliber for promotion. The standards cannot be diluted. The court is not competent to prescribe the standards nor it can afford to lower the standards prescribed. The marks secured by a candidate in such a departmental examination is an index of his knowledge in that particular subject that has to be dealt with by him during the course of discharge of his functions as an Accounts Officer. Therefore, the courts cannot tamper with the basic standards of eligibility and

qualifications prescribed; otherwise it will prove deleterious to the public interest. By a perfunctory order, the Tribunal gave a direction to Award minimum qualifying marks to the respondents who came before it. We cannot expect the Tribunal to possess the expertise of scrutinizing whether a particular question given in the examination fell out of syllabus or not, particularly, when the subject is highly technical in nature. Ignoring the fact that all the respondents appeared for all the papers including Paper-IX in the examinations conducted subsequently, the direction given by the Tribunal to award minimum qualifying marks to the respondents has a far-reaching effect in the Telecom Department. By looking at the Chapter headings one cannot decide as to whether a particular question fell out of syllabus or not; that is what the Tribunal has done in this case. It observed that some confusion was created and the benefit of doubt shall be given to the respondents herein. We are of the opinion that the approach made by the Tribunal in this regard and the reasons given by it are not satisfactory. In fact, the application of the respondents in the O.A. discloses that they made detailed representations to the 2nd petitioner, the competent authority, through proper channel, indicating that the questions given are out of syllabus and it appears that even before the representations are disposed of, they approached the Tribunal. For the foregoing reasons, we are of the clear opinion that the order of the Tribunal is liable to be set aside.

In the result, the Writ Petition is allowed, but in the circumstances without costs.

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J.CHELAMESWAR, J.

Date: 16-06-2006.

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M.VENKATESWARA REDDY, J.

LRKM/GS